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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,358	03/12/2004	Edward George Callway	00100.99.1035	7951

29153 7590 10/31/2008

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EXAMINER	
BOCCIO, VINCENT F	

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
10/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/800,358	CALLWAY ET AL.	
	Examiner	Art Unit	
	Vincent F. Boccio	2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Amend & Resp of 9/23/2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-15* is/are allowed.

6)☒ Claim(s) *16-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2169.

Response to Arguments

1. Applicant's arguments filed 9/23/2008 have been fully considered but they are not persuasive.

{A} In re page 12, 101 against claim 10, applicant states,

" Applicants submit that the digital storage medium as set forth in the Specification, does not include raw signals but to the contrary include things such as, but not limited to articles of manufacture that may be read only memory, random access memory, cache memory or other suitable memory (see Specification). Accordingly, Applicants respectfully request withdrawal of the rejection. "

The examiner accepts the statement provided from applicant that the interpretation of claim 10 in light of the specification is not intended to cover signals or non-statutory subject matter.

Based on the statements above the examiner deemed that claim 10 is deemed statutory based on applicant's arguments.

Claim 10 is deemed statutory where the recited that the digital storage medium always falls in the statutory class by being one of conventional statutory storage types, such as e.g. RAM, ROM, cache as argued.

{B} In re pages 12-13, applicant states, "Fig. 8, **does not store** digital video data that ***does not include*** embedded data access parameter from the analog video signal."

In response the it depends upon interpretation, YES when the copy protection signal indicates that ONE COPY IS ALLOWED, this code is acknowledged and a NO copy code is generated on the copied to media, so it can be said that, when ONE copy is allowed, that one copy code = 10, "VALID FOR ONE COPY GENERATION", one copy allowed, Fig. 2B, Bits 7-8, then that code REPLACED with code = 11, "INVALID FOR COPY OPERATION", no more copies allowed.

{C} In re pages 12-13, applicant states, "language of claim 11 is not the claim language of claim 16"

The office action has been reviewed and adjusted to the language of claim 16.

{D} In re page 13, applicant states since additional limitations were covered that a non-final should be issues.

In response the examiner apologizes but, deemed that the limitation as recited were covered, there seems to be no real error by missing any limitations and no new grounds generated.

{E} In re page 13, applicant states,

" claim 22 requires processing received data wherein the content protection codings signify the first level of content protection, and independently of content protection coding in the received data, imposing on the processing system a requirement for received data to be subject to a second level of content protection.

There is **no processing based on a first level of content protection** and independently imposing a second level of content protection. The cited portion actually refers to a first level of content protection. There is no independent imposition of a second level of content protection imposed on the processing system. "

In response, the examiner does not agree.

The primary would like to discuss this claim in detail on an interview.

The primary believed that applicant may be referring to Applicant's Fig. 7, interpreting one of two code types step 102, also the same by the reference applied (Fig. 2 B, two codes).

The claims refer to two levels of protection and selecting one of the two (applicant's Fig. 7):

First Level, NO restrictions;

Second Level, restriction, based on the code detected one will be picked based on what is detected, in accord to Fig. 2 B of Kori,

has three sets of restrictive status

1) no copy (restriction)

2) one copy only (restricted to one copy only)

3) copy allowed (Restriction code indicating copying is allowed, as many time as desired, is a level), all are copy restriction indications, two actually restrict but, one code copy indication indicates copying is allowed, therefore the examiner fails to agree.

The examiner deems has covered the arguments presented and if a an interview is deemed helpful the examiner suggests requesting an interview to resolve any further issues.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
   A person shall be entitled to a patent unless --
   The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by Kori et al. (US 5,778,064).

Regarding claim 22, Kori in Fig. 8, discloses and meets the limitations associated with a method comprising:

- processing receiving data including content protection coding signifying a first level (table Fig. 2 B, bits 11 and/or 10, two levels) of content protection, in a data processing system (see Fig. 8, "VBI dec. 51", "A/D 54", "A/D 52", "video signal process 55", "audio signal process 53" etc.);

- independently (processing Independently, processing element AGC 49, Fig. 8 is independent of the access parameter and meets the limitation as recited) of the content protection coding in the received data, imposing on the processing system a requirement for receiving data to be subject to a second level (Table Fig. 2 B, bits 11 and/or 10, two levels) of content protection; selecting one of the first and second levels of content protection and restricting access of the received data based on the selected level of content protection (Fig. 2 B, two protective levels One is Invalid for Copy and a second of

One Copy, ONLY, a third operation Not copy Protected Valid for Copy Operation or not protected at all).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kori et al. (US 5,778,064) in view of Official Notice Taken (supporting reference provided US 4,593,384).

Regarding claims 16-18, Kori in Fig. 8, discloses and meets the limitations associated with a method of video system with controller, to protect access to video data received from an analog video signal that includes an embedded data access parameter comprising:

- receiving an indication of data access restriction for stored video data that is stored in memory, based on the embedded data access parameter, wherein the stored digital video data (Fig. 8, "13") does not include the

embedded data access parameter from the analog video signal

(see Fig. 2 B, met by when the original access parameter is Bits 10, allows for one copy generation, which is converted to 11, invalid for copy operation, mixed at 56 and recording the digital video to tape 13, is stored not with the same access parameter, such as, "10", but, stores, "11", access parameter)

col. 5 line 57-, see

Auxiliary data processing circuit 15 modifies the CGMS data when that data, which was extracted from the VBI signal, indicates that the analog HD signal ***can be copied one time*** (i.e., is partially copy protected). When the CGMS data has the bit value "10" (see FIG. 2), data processing circuit 15 ***changes the CGMS data to the value "11," which represents that the HD signal that is to be*** recorded on the magnetic tape is copy protected ...

- processing the stored digital video data in accordance with the received indication of data access restriction (with the recording done digital video to 13, when the parameter has been modified to "11", then on the next recording to be done where this tape is the source then a copy or another copy will not be permitted).

Regarding claims 17-18, Kori meets the limitations of:

o plurality of different types of data access (Fig. 2B, three, no copy, valid for copies, valid for one copy);
o controlling one of copy restriction (Fig. 2 B).

Claims 19-21 are deemed analyzed and discussed with respect to the claims above.

Furthermore, Kori further is deemed to meet the limitations of wherein when storing the video in digital memory an embedded data access parameter (Fig. 2 B, "valid for one copy generation") is not included (lost due to D/A conversion, also the original in this case is not included because it is changed to no copy) and preventing from access due to copy restriction (see arguments Supra).

Further regarding claims above, **Kori** discloses a various processors for controlling switches and related elements and

interpreting restrictions but, fails to disclose a CPU and computer system.

The examiner takes official notice that what has been done in hardware is obvious to be implemented by a computer system with CPU and software to perform the same, therefore, it would have been obvious to one skilled in the art at the time of the invention to modify Kori by utilizing or replacing the hardware processors with a CPU/computer system and software, as software lends itself to be updated and re-down-loaded, as compared to hardware modifications, as is obvious to those skilled in the art.

The examiner cites a supporting reference below:

US-PAT-NO: 4593384

TITLE: Security device for the secure storage of sensitive data

APPL-NO: 06/684637

DATE FILED: December 21, 1984

Cited Passage:

Detailed Description Text - DETX (35):
The EX-OR gates 93 and 95, the data encryption device 97 and the data decryption device 99 can be implemented in hardware or the operations performed by those units can be performed as a function of software subroutines of the program contained in the PROM 75.

US-PAT-NO: 4531228

TITLE: Speech recognition system for an automotive vehicle

Detailed Description Text - DETX (44):
FIG. 9 shows a fourth embodiment of a voice detecting means of the speech recognition system according to the present invention. In this embodiment, the level detector 31, the threshold calculator 32, the start comparator 33, the timer unit 34, the OR gate 35, the memory unit 36, the threshold corrector 37 and the end comparator 38 described in the third embodiment shown in FIG. 8 are all incorporated within a microcomputer 200 provided with an analog-to-digital

converter, a central processing unit, a read-only memory, a random-access memory, and input/output interfaces, etc. That is to say, some of the functions of the voice detecting means are implemented via arithmetic operations executed in accordance with appropriate software, in place of hardware.

Based on the above references the examiner renders a software implementation obvious to replace any hardware elements as is deemed obvious to those skilled in the art.

Allowable Subject Matter

1. Claims 1-15 allowed, based on the reasons of record in application 08/878,249 and current arguments.

2. Claims 15 would be allowable if rewritten or amended to overcome the objection set fourth Supra.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record Vincent F. Boccio whose telephone number is (571) 272-7373.

The examiner can normally be reached on between Monday-Thursday between (7:30 AM to 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali, can be reached on (571) 272-4105.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.
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For more information about the PAIR system:

"http://portal.uspto.gov/external/portal/pair"

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vincent F. Boccio/
Primary Examiner, Art Unit 2169